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U.S. DISTRICT COURT E.D.N.Y.  
★ JUL 31 2013 ★  
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File No.: 102333

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

National Photo Group, LLC,

Plaintiff,

vs.

RUBEX DRUGS INC.,

Defendant(s):

**CHEN, J.**

**GOLD, M.J.**

Docket No:

**CV 13 - 4353**

DEMAND FOR JURY TRIAL

COMPLAINT FOR:

1) COPYRIGHT INFRINGEMENT

National Photo Group, LLC, by and through its undersigned counsel, states and alleges as follows:

**INTRODUCTION**

1. Plaintiff National Photo Group, LLC ("NPGR") provides entertainment-related photojournalism goods and services. In particular, NPGR owns the rights to a multitude of photographs featuring celebrities, which it licenses to online and print publications.

2. NPGR's portfolio of celebrity photographs is the bread and butter of its business.

3. NPGR has obtained U.S. copyright registrations covering many of its photographs, and others are the subject of pending copyright applications.

4. Defendant Rubex Drugs Inc. owns and operates a website known as [www.allmediany.com](http://www.allmediany.com).

5. Without permission or authorization from NPGR, Rubex Drugs Inc. copied, modified,

and displayed NPGR's photograph(s) on Rubex Drugs Inc.'s website [www.allmediany.com](http://www.allmediany.com).

6. Rubex Drugs Inc. engaged in this misconduct knowingly and in violation of the United States copyright laws.

7. NPGR has been substantially harmed as a result of Rubex Drugs Inc.'s misconduct.

### **JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction over the federal copyright infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331. The Court has supplemental jurisdiction over the claims arising under state law pursuant to 28 U.S.C. §1367(a) in that the state claims are so related to the claims over which the court has original jurisdiction that they form part of the same case or controversy.

9. This Court has personal jurisdiction over Rubex Drugs Inc. because Rubex Drugs Inc. maintains its principal place of business in Queens County, New York and purposely directs substantial activities at the residents of New York by means of the website described herein.

10. Venue is proper under 28 U.S.C. §1391(a)(2) because Rubex Drugs Inc. does business in this Judicial District or because a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District.

### **PARTIES**

11. NPGR is a California Limited Liability Company and maintains its principal place of business in Los Angeles County, California.

12. On information and belief, Rubex Drugs Inc., a Corporation with a principal place of business in Queens County, New York is liable and responsible to Plaintiff based on the facts herein alleged.

### **FACTUAL ALLEGATIONS**

#### **NPGR's Business**

13. NPGR Provides entertainment-related photojournalism goods and services. In particular, NPGR owns the rights to a multitude of photographs which it licenses to online and print publications.

14. NPGR has invested significant time and money in building its photograph portfolio.

#### **NPGR's Copyrights**

15. NPGR has obtained U.S. copyright registrations covering many of its photographs, and others are the subject of pending copyright applications.

16. NPGR's photographs are original, creative works in which NPGR owns protectable copyright interests.

17. NPGR owns several active and valid copyright registrations with the United States Copyright Office (the "USCO"), which registrations cover NPGR's photographs.

18. NPGR also has filed several copyright applications with the USCO, which are presently pending.

19. NPGR applied for and received [a] copyright registration(s) for a collection(s) of photographs, which included the photograph(s) annexed hereto as Exhibit(s) "1" (the "Photograph(s)").

#### **Rubex Drugs Inc.'s Website**

20. On information and belief, Rubex Drugs Inc. is the registered owner of the website located at [www.allmediany.com](http://www.allmediany.com) (the "Website"). On information and belief, Rubex Drugs Inc. operates the Website and is responsible for all Website content.

21. The Website provides, *inter alia*, articles, photographs and other information regarding celebrities.

22. The Website is monetized in that it contains paid advertisements. On information and belief, Rubex Drugs Inc. profits from these activities.

#### **Rubex Drugs Inc.'s Misconduct**

23. Without permission or authorization from NPGR, Rubex Drugs Inc. copied, modified, and/or displayed the Photograph(s) on the Website, in violation of NPGR's copyrights. See Exhibit "1" annexed hereto.

24. On information and belief, the Photograph(s) were copied from the website(s) of NPGR's Clients and reposted on the Website without license or permission, thereby infringing on the Copyrights

(the "Infringement(s)").

25. On information and belief, Rubex Drugs Inc. was aware of facts or circumstances from which the Infringement(s) was/were apparent. Based on this totality of circumstances, Rubex Drugs Inc. cannot claim that it is not aware of the widespread infringing activities, including the Infringement(s), on the Website. Such a claim would amount to willful blindness to the Infringement(s) on the part of Rubex Drugs Inc..

26. On information and belief, Rubex Drugs Inc. engaged in the Infringement(s) knowingly and in violation of United States copyright laws.

27. On information and belief, Rubex Drugs Inc. has received a financial benefit directly attributable to the Infringement(s). Specifically, by way of the Infringement(s), Rubex Drugs Inc. increased traffic to the Website and, in turn, realized an increase in, its advertising revenues and/or merchandise sales.

28. As a result of Rubex Drugs Inc.'s misconduct, NPGR has been substantially harmed.

### **FIRST COUNT**

#### **(Copyright Infringement, 17 U.S.C. § 501 *et seq.*)**

29. NPGR repeats and incorporates by reference the allegations contained in the preceding paragraphs, as though set forth in full herein.

30. The Photograph(s) are original, creative works in which NPGR owns protectable copyright interests.

31. NPGR has not licensed Rubex Drugs Inc. to use the Photograph(s) in any manner, nor has NPGR assigned any of its exclusive rights in the Copyrights to Rubex Drugs Inc..

32. Without permission or authorization from NPGR and in willful violation of NPGR's rights under 17 U.S.C. §106, Rubex Drugs Inc. reproduced the Photograph(s).

33. On information and belief, without permission or authorization from NPGR and in willful violation of NPGR's rights under 17 U.S.C. § 106, Rubex Drugs Inc. displayed the Photograph(s) on the Website.

34. Rubex Drugs Inc.'s reproduction of the Photograph(s) and display of the Photograph(s)

on the Website constitutes copyright infringement.

35. On information and belief, thousands of people have viewed the unlawful copies of the Photograph(s) on the Website.

36. On information and belief, Rubex Drugs Inc. had knowledge of the copyright infringement alleged herein and had the ability to stop the reproduction and display of NPGR's copyrighted material.

37. Rubex Drugs Inc.'s copyright infringement has damaged NPGR in an amount to be proven at trial.

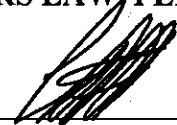
**PRAYER FOR RELIEF**

**WHEREFORE**, NPGR respectfully requests judgment as follows:

1. That the Court enter a judgment finding that Rubex Drugs Inc. has infringed on NPGR's Copyrights in the Photograph(s) in violation of 17 U.S.C. § 501 et seq.;
2. That the Court award damages and monetary relief as follows:
  - a. Statutory damages against Rubex Drugs Inc. pursuant to 17 U.S.C. § 504(c) of \$150,000 per infringement or in the alternative NPGR's actual damages and Rubex Drugs Inc.'s wrongful profits in an amount to be proven at trial;
  - b. NPGR's attorneys' fees pursuant to 17 U.S.C. § 505;
  - c. NPGR's costs; and
3. Such other relief that the Court determines is just and proper.

DATED: July 18, 2013

**SANDERS LAW PLLC**



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**REQUEST FOR JURY TRIAL**

Plaintiff hereby demands a trial of this action by jury.

DATED: July 18, 2013

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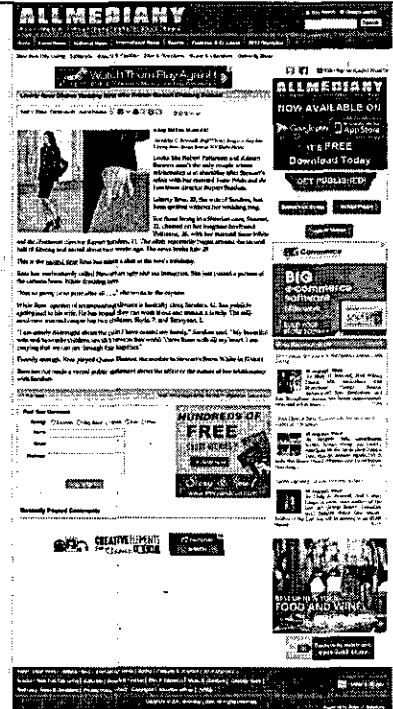


Photo Owner: National Photo Group, LLC  
 Photo ID Number: 0  
 Date Taken: 00/00/0000  
 Photo Description: Liberty Ross leaves  
 Office Building  
 Photo Location:  
 Copyright Application Date: 00/00/0000  
 Application Number: 1-805606970  
 Copyright Registration Date: 00/00/0000  
 Registration Number: VA0001836367

Domain: www.allmediary.com  
 URL:  
<http://www.allmediary.com/articles/4528-liberty-ross-ditches-wedding-ring>  
 Observed Date: 08/14/2012



AO 121 (6/90)

<b>TO:</b>  <b>Register of Copyrights Copyright Office Library of Congress Washington, D.C. 20559</b>	<b>REPORT ON THE FILING OR DETERMINATION OF AN ACTION OR APPEAL REGARDING A COPYRIGHT</b>
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In compliance with the provisions of 17 U.S.C. 508, you are hereby advised that a court action or appeal has been filed on the following copyright(s):

<input checked="" type="checkbox"/> ACTION <input type="checkbox"/> APPEAL		COURT NAME AND LOCATION U. S. District Court, Eastern District of New York 225 Cadman Plaza East Brooklyn, NY 11201
DOCKET NO.	DATE FILED	
PLAINTIFF National Photo Group, LLC		DEFENDANT RUBEX DRUGS INC.
COPYRIGHT REGISTRATION NO	TITLE OF WORK	AUTHOR OR WORK
1. VA0001836367		National Photo Group, LLC

In the above-entitled case, the following copyright(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
COPYRIGHT REGISTRATION NO	TITLE OF WORK	AUTHOR OR WORK	
1			
2			
3			

In the above-entitled case, a final decision was rendered on the date entered below. A copy of the order or judgment together with the written opinion, if any, of the court is attached.

COPY ATTACHED <input type="checkbox"/> Order <input type="checkbox"/> Judgment	WRITTEN OPINION ATTACHED <input type="checkbox"/> Yes <input type="checkbox"/> No	DATE RENDERED
CLERK	(BY) DEPUTY CLERK	DATE

**DISTRIBUTION**

1) Upon initiation of action, mail copy to Register of Copyrights      2) Upon filing of document adding copyright(s) mail copy to Register of Copyrights      3) Upon termination of action mail copy to Register of Copyrights

4) In the event of an appeal, forward copy to Appellate Court      5) Case File Copy